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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

944-003.174

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on June 5, 2006Signature Janet HamesTyped or printed name Janet Hames

Application Number

10/659,776

Filed

Sept. 10, 2003

First Named Inventor

Kristian Fagerstrom

Art Unit

2687

Examiner

M. Santiago Cordero

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 30,927

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

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6/5/2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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(Pre-Appeal Brief Request for review (PTO/SB/33) [9-6.3])





PATENT
Attorney Docket No.
944-003.174

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the matter of: Kristian Fagerström et al.
Serial No.: 10/659,776
Filed: September 10, 2003
For: MOVABLE FUNCTIONAL ELEMENTS FOR MOBILE
COMMUNICATION DEVICE
G.A. Unit: 2687 Conf. No. 4887
Examiner: Marivelisse Santiago Cordero

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action of March 9, 2006, applicants request a panel review in accordance with the Official Gazette notice of July 12, 2005. A Notice of Appeal and the appropriate fees accompany this request.

ARGUMENTS

The Office Action dated March 9, 2006 has been received and its contents carefully noted. In response thereto, applicants respectfully request panel review of the Section 102 and 103 rejections of the claims in view of the following arguments.

Claim Rejections - 35 U.S.C. §§ 102 and 103

Claims 1-10, 17-18, 22 and 24-29 have been rejected as being anticipated by Lahr (U.S. Pub. No. 2003/0132863). To reject claims 15-16, the Examiner modifies the Lahr publication on the grounds of alleged obviousness by adding Murphy (U.S. Pub. No. 2003/0147205). Claims 19-21 and 23 have been rejected on the grounds of alleged obviousness by combining the Lahr publication with Kwon (U.S. Pub. No. 2004/0203513). Applicants disagree with these rejections for the following cogent reasons.

The present invention is concerned with a mobile communication device having a base element (12, 112), at least one functional element (46, 130) mounted for reciprocal movement on the base element (12, 112) between retracted and extended positions (See Figs. 3, 4, 9 and 10) and a cover element (14, 114) mounted to the base element (12, 112) for relative movement thereto between closed and opened positions (See Figs. 1, 2, 9 and 10) and adapted to move the at least one functional element (46, 130) between the retracted and extended positions during relative movement of the cover element (14, 114) between the closed and opened positions.

On the other hand, the Lahr publication describes a articulated, rotatable, expandable and contractible keyboard device comprising a housing 12 with a channel 18 in its back into which a hub 22 of a keyboard 20 is contained. While the keyboard of Lahr is expandible, the keyboard and housing do not interact during the opening and closing of the housing to cause expansion of the keyboard as found in the present invention. In Lahr, the opening and closing of the housing is totally independent of the expansion of the keyboard. The Lahr publication fails to show a mobile communication device having a base element, at least one functional element mounted for reciprocal movement on the base element between retracted and extended positions and a cover element mounted to the base element for relative movement thereto between closed and opened positions and adapted to move the at least one functional element between the retracted and extended positions during relative movement of the cover element between the closed and opened positions as required by claim 1. The Lahr publication only shows at least one functional element mounted for reciprocal movement with the base element between retracted and extended positions. This Lahr publication also does not show the details of mechanical interaction of the cover element and the at least one functional element during relative movement of the cover element between the closed and opened positions which moves the at least one functional element between the retracted and extended positions as required by claims 8-10, 15-16 and 26-29. Accordingly, it is submitted that the present invention is unique and constitutes an important advance in the art over Lahr.

The Examiner recognizes some of the inherent deficiencies of the Lahr publication attempts to correct them by combining bits and pieces of Murphy and Kwon into the Lahr publication. However, Murphy and Kwon do not make up for the above noted basic deficiencies

in the Lahr publication so the combinations proposed by the Examiner still fall far short of the present invention. Murphy and Kwon both show pop out expandible keyboards which are not interactive keyboards whose reciprocal movement between their retracted and extended positions is caused by the relative movement of a cover element between the closed and opened positions as found in the present invention.

In summation, the claims are believed to be clearly distinguishable over the cited references as all the claims recite features which are not found in the cited references. The obviousness rejections use a hindsight reconstruction of applicants' invention based on their own disclosure. Applicants respectfully submit that, without the benefit of having read the present disclosure, there would be nothing to inspire an attempt to combine Lahr with Murphy or Kwon, much less a workable plan to combine their features. The proposed modification of the references still falls far short of applicants' unique invention.

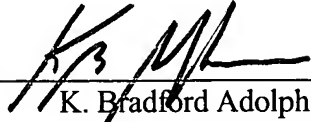
CONCLUSION

In view of the foregoing arguments, applicants respectfully submit that the rejected claims are distinguishable over the cited art taken singly or in combination. Accordingly, withdrawal of the final rejection and allowance of the application are believed to be in order, and such action is earnestly solicited. The panel is invited to call applicants' attorney if any questions remain following review of this response.

Serial No. 10/659,776

Respectfully submitted,

Dated: 6/5/2006

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